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MECHANISMS OF THE PROTECTION OF HUMAN RIGHTS IN THE EAEU AND CIS COUNTRIES

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After the collapse of the Soviet Union, there were profound changes in the post-Soviet space of a political, economic, socio-cultural and legal nature. Currently, the region has the most developed economic direction of interstate relations. A striking example is the Eurasian Economic Union (EAEU), the youngest integration entity in the world, which unites five states that wish to build their relations on a closer integration basis than the existing format of cooperation within the Commonwealth of Independent States (CIS). In the modern world, it is economic and financial interests that force states to change their domestic and foreign policies, start or end trade wars, fight desperately for respect for their legal rights, or, on the contrary, voluntarily give up part of their sovereignty in the framework of integration construction. The experience of the European Union (EU) shows that building a single internal market in which people, goods, services and capital move freely is a necessary, but not the only attribute of a successful integration project. At a certain point, the totality of economic and financial interests must be supplemented by a set of interests of a particular person. Strict observance of human rights and freedoms becomes a factor that determines the possibility of moving to higher forms of integration.

This article examines the mechanisms for the protection of human rights within the EAEU and the current state, as well as the quality and effectiveness of these mechanisms used.

Nowadays one of the most important statutory tasks of the United Nations is to promote and protect human rights. The UN Charter does not provide for rules that guarantee a person the possibility of exercising certain fundamental rights and freedoms. Nevertheless, it has become one of the most important documents, which raises the question of the need to ensure the rights of the individual, and establishes the principle of universal respect for human rights and freedoms.

The EAEU treaty is an international agreement that established an international organization for regional integration in the field of economic relations. The goal of creating a political union, at least at this stage, is not worth it, just as the task of protecting human rights and fundamental freedoms is not worth it. However, the human rights issue in this document is indirectly affected, for example, in article 60 "Guarantees of consumer protection", article 97 "Labor activity of workers of the member States", article 98 "Rights and obligations of the working member state". The agreement includes articles related to this. As an example, we can cite article 70 "Goals and principles of regulation of financial markets", which refers to the provision of "guaranteed and effective protection of the rights and legitimate interests of consumers of financial services" [1]. It should be added that ensuring the freedom of movement of persons, goods, services and capital within the internal market of the EAEU is indirectly related to the implementation of human rights and freedoms, for example, within the framework of the freedom to conduct business. We can give other examples, but this will not change the main characteristic of this rather extensive document: human rights issues do not belong to the goals of the treaty on the EAEU. The protection of human

rights is not within the direct competence of the Union and its bodies, so there is no necessary institutional framework for the protection of rights and freedoms. Thus, Protocol No. 2 (dedicated to the EAEU Court) of the treaty does not say anything about the general competence of the Court in the field of protection of human rights and fundamental freedoms. The main task of judges is to resolve disputes arising from the implementation of the Agreement, and they do not have the right to confer additional competence on the Union bodies. The Treaty on the EAEU does not contain a single catalogue of human rights and freedoms that is binding on both the member States of the Union and its bodies. This is perhaps the main drawback of this document in terms of prospects for building a human rights mechanism within the EAEU.

It will take time for the human rights issue within the EAEU to fully manifest itself. This requires political will and real progress in the field of economic integration, since as regulated public relations expand and become more complex, the integration interests of the EAEU and the private interests of a particular individual may clash. The faster economic integration develops, the more urgent the issue of the need to guarantee human rights at the Union level becomes.

The Minsk agreement (December 8, 1991), signed by the heads of the three Soviet Union republics (the RSFSR, the Republic of Belarus, and Ukraine), stated that "...The Soviet Union as a subject of international law and geopolitical reality ceases to exist" [2]. At the same time, the creation of the CIS was announced. Following a meeting of senior leaders of Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine in Almaty on December 21, 1991, a Declaration was signed where it was indicated that the interaction "...it will be implemented on the principle of equality through coordinating institutions formed on a parity basis and acting in accordance with the procedure determined by agreements between members of the Commonwealth, which is neither a state nor a supranational union" [3]. The process of forming the CIS structure ended with the adoption of the Charter of the Commonwealth of Independent States at the Minsk summit of the CIS countries in 1993. It emphasizes that Cooperation is based on the principles of the sovereign equality of all its members, and its participants are independent and equal subjects of international law. The totality of these documents forms the legal basis for the CIS activities. The CIS appears as an international organization that must solve mainly economic problems. As in the case of the EAEU, there is a certain similarity with the initial stage of formation of the European communities. This reflects a General trend not only for Europe, but also for the whole world: "Economic imperatives gradually broke away from everything else and political rules gradually became a matter of administration, caused processes that undermine the status of citizens".

Within the CIS, the economic imperatives of interstate relations, combined with the non-expressed integrative nature of the Commonwealth, predetermined the moderate approach of its participants to ensuring universal values. The CIS Charter defines the goals as "ensuring human rights and freedoms" and "cooperation between member States in ensuring international peace and security" [4]. The implementation of these goals in accordance with article 3 of the Charter is based on the "generally recognized norms of international law" and, above all, the "Helsinki Final act" [4]. It is characteristic that the list of principles of the Commonwealth first indicates "respect for the sovereignty of member States", and the principle of ensuring human rights and fundamental freedoms is listed eighth. The CIS Charter explicitly assigns its universal component "to the spheres of joint activities of member States implemented on an equal basis through common coordinating institutions" [4].

Respect for human rights and fundamental freedoms is also mentioned in the Declaration on compliance with the principles of cooperation within the Commonwealth of Independent States of 14 February 1992, which establishes the need to ensure "strict compliance with international standards in the field of human rights and fundamental freedoms, including the rights of national minorities". The heads of member States are charged with the duty to "work out the mechanism of responsibility" for violation of the principles specified in this document [5]. As can be seen, the participants' attitude to the issue of human rights was initially coordinating and declarative, and the main responsibility for this issue was assigned to the States parties.

It is also necessary to mention the Declaration of the CIS heads of state on international obligations in the field of human rights and fundamental freedoms of September 24, 1993. In this document, the participating States, confirming their commitment to "the purposes and principles enshrined in the UN Charter and the UN universal Declaration on human rights" [6], stated the need to take appropriate decisions on the formalization of succession to human rights treaties and agreements, as well as on the implementation of obligations in the field of human rights and fundamental freedoms arising from international treaties and agreements to which the USSR was a party. States parties stated the need to address problems related to the implementation of international human rights treaties and agreements and to identify and remove obstacles to the effective observance of human rights and fundamental freedoms. The need for further concentration of efforts in this area through bilateral and multilateral agreements was emphasized. The development and adoption of the CIS Convention on human rights has become common for member States. The documents discussed above were adopted at the very beginning of the CIS. Then a number of legal acts on human rights and respect for the principles of democracy were adopted.

A special category is made up of CIS multilateral agreements that, like the UN and Council of Europe Conventions, enshrine basic human rights and freedoms and provide mechanisms for monitoring their implementation. The Central place in this category of multilateral acts belongs to the Commonwealth of Independent States Convention on human rights and fundamental freedoms [7]. In Minsk, on May 26, 1995, it was signed by seven States: Armenia, Belarus, Georgia, Kyrgyzstan, Moldova, Russia, and Tajikistan. According to paragraph 1 of art. 38 of the CIS Convention, this multilateral agreement, including the Provision on the Commission on human rights, shall enter into force on the date of delivery of the third notification confirming the implementation by the States parties of all necessary domestic procedures.

The CIS Convention contains a wide range of rights that are known from the most important human rights documents, such as the universal Declaration of human rights, the international Covenant on economic, social and cultural rights, the international Covenant on civil and political rights, and the ECHR. At the same time, the content of the Convention has a certain specificity, since it indirectly reflects the processes that took place in the post-Soviet space in the first years after the collapse of the USSR. Consideration of the content of the CIS Convention should begin with an analysis of the provisions that bring this document closer to the main international legal acts.

As in the ECHR, states parties assume obligations to guarantee the rights and freedoms of any person (regardless of nationality) under their jurisdiction. The similarity doesn't end there. According to the meaning of article 35, paragraph 2, of the CIS Convention, it is unacceptable to derogate from a number of rights enshrined in this agreement, namely: the right to life (article 2); the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (article 3); the prohibition of slavery and servitude (article 4, paragraph 1); non-recognition of the retroactive force of the criminal law (paragraph 1, article 7), the right not to be tried or punished twice for a single crime, or the principle of non bis in idem (paragraph 2, article 7). As you can see, the list of inalienable rights enshrined in the CIS Convention fully coincides with similar rights enshrined in the ECHR. The only non-fundamental exception is the principle of non bis in idem, which does not appear as such in the ECHR, but is enshrined in article 4 of Protocol No. 7, whereas in the CIS it is included in the text of the Convention. Thus, articles 1, 2, 3, 4 and 7 of the two documents are almost identical, and they are very similar in content to articles 5 and 6 of the Conventions.

The high degree of similarity of the two documents allows us to conclude that the developers of the CIS Convention took the ECHR as a model. However, it is wrong to say that the two texts are completely identical. The CIS Convention, having accepted almost entirely the rights and freedoms enshrined in section 1 of the ECHR, has a number of differences due to the specifics of the CIS – the General crisis in the post-Soviet space in the first years after the collapse of the

USSR could not but affect the content of this document. That is why the CIS Convention pays great attention to the category of so-called inalienable rights, as well as socio-economic rights.

We can argue about some of the advantages or disadvantages of the CIS Convention, but in general, we must admit that the countries managed to prepare a fairly complete and high-quality document. It met not only the requirements of its time, but also to a certain extent raised the overall bar for the protection of human rights and fundamental freedoms in the post-soviet space. However, the CIS Convention, which is rich in content, does not have an effective mechanism for monitoring its implementation. The CIS Convention contains a general reference to a monitoring body – according to article 34, it is the Commission on human rights of the Commonwealth of Independent States (CHR CIS). The main issues of its activity are regulated by the regulations on the CHR CIS. According to the available information, this body has not yet started work. There are two significant and interrelated disadvantages of such a formal control mechanism: control functions are not performed by a judicial body; the decisions of this body are advisory in nature. It is obvious that the functions of the control body could eventually be performed by the Court of the EAEU, but this requires the political will of the member States of the Union and changes to the treaty. At present, when the development of the EAEU depends less on external factors, we need to think about internal reasons that do not slow down the most powerful integration process that is developing in the post-Soviet space and on the success of which the well-being of tens of millions of people depends.

One of the internal reasons that may appear in the near future is the lack of attention to human rights issues in the framework of the EAEU Treaty. In order to resolve this issue, it is necessary to make changes to the agreement, while not ignoring the small, but own experience accumulated within the CIS.

Literature

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